

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

AMERICAN CIVIL LIBERTIES UNION, et al.

Plaintiffs,

v.

ALBERTO R. GONZALES, in his official capacity as
ATTORNEY GENERAL OF THE UNITED STATES,

Defendant.

Civil Action No.
98-CV-5591 (LAR)

**JOINT SUPPLEMENT TO THE PROPOSED PRETRIAL ORDER REFLECTING ADDITIONAL
STIPULATIONS BY PLAINTIFFS AND DEFENDANT**

The parties agree to the following four additional stipulations of fact. In light of these stipulations, Plaintiffs agree to withdraw paragraphs 220, 221, 224, and 226 from their Statement of Facts that Are in Dispute. See Proposed Pretrial Order at p. 64-65 (Doc. No. 319) Plaintiffs further agree that Rebecca C. Gilbert of the Department of Justice will not be called as a witness at trial. See id. at p. 146-47.

121. Existing laws make it illegal to distribute material over the Internet that constitutes obscenity, 18 U.S.C. ch. 71, or child pornography, 18 U.S.C. ch. 110. From 2000 to 2005, Defendant initiated fewer than 20 prosecutions for obscenity which did not also accompany charges of child pornography, travel in interstate commerce to engage in sex with a minor, or attempting to transfer obscene material to a minor.

122. There have been fewer than 10 prosecutions for obscenity which did not also accompany charges of child pornography, travel in interstate commerce to engage in sex with a minor, or attempting to transfer obscene material to a minor since 2005.

123. Existing law prohibits the use of misleading domain names by Web sites. 18 U.S.C. § 2252B. Since the effective date of the statute in 2003, Defendant has initiated fewer than 10 prosecutions under the Misleading Domain Names statute.

124. Some Department of Justice components have installed the Websense enterprise filter on their computers that have Internet access. The Department installed Websense to control and manage Internet access and to protect the institution from waste, fraud and abuse. In furtherance of these objectives, the Department utilizes various categories provided by Websense, including the category that seeks to block sexually explicit material. With respect to its computers that use Websense, the Department's Justice Management Division, which is responsible for Department Information Technology services, is satisfied with the operation and

effectiveness of the Websense filter and believes that Websense successfully blocks pornographic websites on JMD computers that use Websense; it has received few complaints that the filter underblocks; it rarely receives complaints that the filter overblocks.

Respectfully submitted,

_____/s/_____
Christopher A. Hansen
Aden Fine
Benjamin Wizner
Catherine Crump
American Civil Liberties Union
125 Broad Street – 18th floor
New York, NY 10004
(212) 549-2693

_____/s/_____
Christopher R. Harris
Seth L. Friedman
Katharine E. Marshall
Jeroen van Kwawegen
Elan R. Dobbs
Latham & Watkins LLP
885 Third Avenue
New York, NY 10022
(212) 906.1800

For Plaintiffs

_____/s/_____
Theodore C. Hirt
Raphael O. Gomez
Eric J. Beane
Isaac Campbell
Joel McElvain
Kenneth E. Sealls
James D. Todd, Jr.
Tamara Ulrich
United States Department of Justice
Civil Division, Room 6144
20 Massachusetts Ave. NW
Washington D.C. 20530

For Defendant